

other specific needs of such a child or children.

(b) *Spousal support.* Periodic payments for the support and maintenance of a spouse or former spouse in accordance with State or local law. It includes, but is not limited to, separate maintenance, alimony pendente lite, and maintenance. Spousal support does not include any payment for transfer of property or its value by an individual to his or her spouse or former spouse in compliance with any community property settlement, equitable distribution of property, or other division of property between spouse or former spouse.

(c) *Notice.* A court order, letter, or similar documentation issued by an authorized person, which provides notification that an officer has failed to make periodic support payments under a support order.

(d) *Support order.* Any order providing for child or child and spousal support issued by a court of competent jurisdiction or by administrative procedures established under State law that affords substantially due process and is subject to judicial review. A court of competent jurisdiction includes Indian tribal courts within any State, territory, or possession of the United States and the District of Columbia.

(e) *Authorized person.* (1) Any agent or attorney of any State having in effect a plan approved under part D of title IV of the Social Security Act (42 U.S.C. 651-665), who has the duty or authority to seek recovery of any amounts owed as child or child and spousal support (including, when authorized under a State plan, any official of a political subdivision); and (2) the court which has authority to issue an order against the officer for the support and maintenance of a child, or any agent of such court.

(f) *Active duty.* Full-time duty in the Service, including full-time training duty.

(g) *Legal officer.* Shall be an officer of the Service or employee of the Department who is a lawyer and who has substantial knowledge of the regulations, policies, and procedures relating to the implementation of section 172 of Pub. L. 97-248.

§ 21.73 Policy.

(a) It is the policy of the Department of Health and Human Services to withhold allotments from pay and allowances of commissioned officers on active duty in the Service to make involuntary allotments from pay and allowances as payment of child, or child and spousal, support payments when the officer has failed to make periodic payments under a support order in a total amount equal to the support payable for two months or longer. Failure to make such payments shall be established by notice from an authorized person to the designated official of the Department. Such notice shall specify the name and address of the payee to whom the allotment is payable. The amount of the allotment shall be the amount necessary to comply with the support order including amounts for arrearages as well as for current support. However the amount of the allotment, when added to any other amounts withheld from the officer's pay pursuant to a support order, shall not exceed the limits for involuntary allotments from pay as prescribed in section 303 (b) and (c) of the Consumer Credit Protection Act, 15 U.S.C. 1673. An allotment under this Subpart shall be adjusted or discontinued upon notice from any authorized person.

(b) Notwithstanding the above, no action shall be taken to withhold an allotment from the pay and allowances of any officer until such officer has had an opportunity to consult with a legal officer of the Department to discuss the legal and other factors involved with respect to the officer's support obligation and his or her failure to make payments. The Department shall exercise continuing good faith efforts to arrange such a consultation, but must begin to withhold allotments on the first end-of-month payday after 30 days have elapsed since notice of an opportunity to consult was sent to the officer.

§ 21.74 Responsibilities.

(a) The General Counsel, Office of the Secretary, Department of Health and Human Services, shall be the Designated Official for the Department

and shall provide guidance to the Service regarding administration of the provisions of these regulations.

(b) The Commissioned Personnel Operations Division, Office of Personnel Management, Office of Management, Office of the Assistant Secretary for Health, shall implement the provisions of these regulations.

§ 21.75 Procedures.

(a) *Service of notice.* (1) An authorized person shall serve on the designated official of the Department a signed notice including:

- (i) Full name of the officer;
- (ii) Social security number of the officer;
- (iii) Duty station location of the officer, if known;
- (iv) A statement that support payments are delinquent by an amount at least equal to the amount of support payable for two months;
- (v) A photocopy, along with any modifications, of the underlying support order;
- (vi) A statement of the amount of arrearages provided for in the court order and the amount which is to be applied each month toward liquidation of the arrearages, if applicable;
- (vii) The full name and address of the payee to whom the allotment will be payable;
- (viii) Any limitations on the duration of the support allotment.

(2) The service of notice shall be accomplished by certified or registered mail, return receipt requested, or by personal service, upon the appropriate designated official of the Department. The designated official shall note the date and time of receipt on the notice.

(3) Valid service is not accomplished until the notice is received in the office of the designated official.

(4) If the order of a court or duly authorized administrative agency seeks collection of arrearages, the notice must state that the support allotment qualifies for the additional 5 percent in excess of the maximum percentage limitations found in 15 U.S.C. 1673. Supporting evidence must be submitted to the Department establishing that the support order is 12 or more weeks in arrears.

(5) When the information submitted is not sufficient to identify the officer the notice shall be returned directly to the authorized person with an explanation of the deficiency. However, before returning the notice, an attempt should be made to inform the authorized person who caused the notice to be served that it will not be honored unless adequate information is supplied.

(6) Upon proper service of notice of delinquent support payments and together with all required supplementary documents and information, the Service shall identify the officer from whom moneys are due and payable. The pay of the officer shall be reduced by the amount necessary to comply with the support order and liquidate arrearages if any, if provided by order of a court or duly authorized administrative agency. The maximum amount to be allotted under the provision together with any other moneys withheld from the officer for support pursuant to a court order may not exceed:

(i) 50 percent of the officer's disposable earnings for any month when the officer asserts by affidavit or other acceptable evidence that he or she is supporting a spouse or dependent child or both, other than a party in the support order. When the officer submits evidence, copies shall be sent to the authorized person, together with notification that the officer's support claim will be honored. If the support claim is contested by the authorized person, the authorized person may refer it to the appropriate court or other authority for resolution. Pending resolution of a contested support claim, the allotment shall be made but the amount of such allotment may not exceed 50 percent of the officer's disposable earnings;

(ii) 60 percent of the officer's disposable earnings for any month when the officer fails to assert by affidavit or other acceptable evidence, that he or she is supporting a spouse or dependent child or both;

(iii) Regardless of the limitations above, an additional five percent of the officer's disposable earnings shall be withheld when it is stated in the notice that the officer is in arrears in an amount equivalent to 12 or more weeks' support.